STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION,	)	
Charging Party,	)	Case No. LA-CE-3394
v.	)	Administrative Appeal
LOS ANGELES UNIFIED SCHOOL DISTRICT,	)	PERB Order No. Ad-268
Respondent.	)	May 24, 1995

Appearance: Office of the General Counsel by Rochelle J. Montgomery, Staff Counsel, for Los Angeles Unified School District.

Before Blair, Chair; Caffrey and Johnson, Members.

DECISION

JOHNSON, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Los Angeles Unified School District (District) of the PERB appeals assistant's denial of its untimely request for an extension of time to file exceptions to a PERB administrative law judge's (ALJ) proposed decision.

BACKGROUND

The ALJ's proposed decision was served on the parties by mail on February 22, 1995. The proposed decision informed the parties that "the statement of exceptions must be filed with the Board itself within 20 days of service of this Decision . . . ." (Emphasis added.) Including weekends and the five-day extension

provided by PERB Regulation 32130(c),[1] exceptions were due to be filed no later than Monday, March 20, 1995.

The District requested an extension of time to file exceptions by facsimile on March 20, 1995. The deadline to file a request for an extension of time to file exceptions in this case was Friday, March 17, 1995 (three days before March 20, 1995). On March 22, 1995, the PERB appeals assistant denied the District's request for an extension as untimely filed.

DISTRICT'S APPEAL

On appeal, the District argues that the PERB appeals assistant should have contacted the District upon receipt of its March 20 facsimile to inform the District that its request for an extension was denied. The District contends that it would then have had an opportunity to file exceptions by the end of the day.

The District also asserts that the late filing should be excused because the attorney of record was absent from work "from approximately March 9 through March 20," due to an extended period of recovery following minor surgery.

DISCUSSION

PERB Regulation 32132(a) states, in pertinent part:

> A request for an extension of time within which to file any document with the Board itself shall be in writing and shall be filed at the headquarters office <u>at least three days before the expiration of the time required for filing</u>. The request shall indicate the reason for the request and,

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[1]PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

> if known, the position of each other party regarding the extension. Service and proof of service pursuant to Section 32140 are required. Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only. (Emphasis added.)

The requirement that the request for an extension be made three days prior to the filing deadline provides PERB with time to determine whether good cause exists before the filing deadline. (Regents of University of California (1993) PERB Order No. Ad-243-H.) If the request is found to be without good cause, sufficient time may remain for the requesting party to make a proper filing. In this case, the District filed its extension request three days late.

On appeal, the District argues that as a professional courtesy both the California School Employees Association and the PERB appeals assistant should have contacted the District immediately with respect to its request for an extension of time. The District contends that it would then have had an opportunity to file exceptions by the end of the day. PERB Regulation 32132 mandates that the Board receive the request at least three days before the expiration of the time required for filing so that ample time is available to consider the request. We, therefore, reject this argument because it is unreasonable for a party to demand an immediate response to its late request.

The District also asserts that the late filing should be excused because the attorney of record was absent from work

"from approximately March 9 through March 20," due to an extended period of recovery following minor surgery. Pursuant to PERB Regulation 32136,[2] the Board may excuse a late filing for good cause only.

The District's attorney was aware of the scheduled surgery well before the deadline to file an extension request. The attorney's failure to plan ahead and timely file the request for an extension does not constitute good cause. (Pasadena Community College District (1992) PERB Order No. Ad-234.) Accordingly, the Board finds that good cause does not exist to excuse the late filing of the District's request for an extension of time.

ORDER

The District's appeal of its untimely filed request for an extension of time to file exceptions in Case No. LA-CE-3394 is hereby DENIED.

Chair Blair and Member Caffrey joined in this Decision.

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[2]PERB Regulation section 32136 states:

> A late filing may be excused in the discretion of the Board for good cause only. A late filing which has been excused becomes a timely filing under these regulations.